

IN THE UNITED STATES DISTRICT
COURT FOR THE DISTRICT OF COLUMBIA

**AHMED ALI MUTHANA, individually, and
as next friend of Hoda Muthana and Minor
John Doe [initials A.M.]**

Plaintiff/Petitioner,

vs.

**Michael Pompeo, in his official capacity as
Secretary of the Department of State,
Donald J. Trump, in his official capacity as
President of the United States; and
William Pelham Barr in his official capacity
as Attorney General.**

Defendants/Respondents.

Cause No. 1:19-cv-00445-RBW

CIVIL ACTION

PLAINTIFF’S RENEWED MOTION FOR EXPEDITED RULING

Plaintiff Ahmed Ali Muthana, individually and as Next Friend of Hoda Muthana and Minor John Doe, by and through undersigned counsel, files this Renewed Motion for Expedited Ruling. Plaintiff filed his initial Motion for Expedited Hearing February 21, 2019.¹ Plaintiff now re-urges the need for expedited relief in this matter, based on updated circumstances and newly discovered facts, as set forth below.

¹ Doc. 2.

I. SUPPORTING FACTS

1. Plaintiff Ahmed Ali Muthana is a naturalized United States citizen and the father of U.S. citizen Hoda Muthana, as well as the grandfather of Minor John Doe. Plaintiff initiated suit for declaratory judgment, injunctive and mandamus relief, on his own behalf and as proper Next Friend of Hoda Muthana and Minor John Doe.²

2. Hoda Muthana is a United States citizen by birthright, and is currently detained in Syria by Kurdish forces at Camp Roj, after being transferred from Camp al-Hol (also spelled al-Hawl). She is detained at Camp Roj with her son, Minor John Doe, who is eligible to become a United States citizen by acquisition as the natural child of his mother. Ms. Muthana had resided in the United States for more than five years prior to Minor John Doe's birth.

3. Ms. Muthana and Minor John Doe escaped ISIS territory with the intent of turning themselves in to United States forces. Ultimately, they surrendered to Kurdish forces in their immediate area, and are now interned in a Kurdish camp in Syria. These Kurdish forces have historically been directly aligned with the United States, and presumably would relinquish custody of Ms. Muthana and her young son to U.S. forces should the United States so request.

4. The President of the United States and the Secretary of the Department of State, however, have publicly objected to her return, and are actively blocking any request to relinquish custody to the United States.

5. The President of the United States most recently announced the withdrawal of U.S. troops from the area, which has led to much upheaval³ and has affected other refugee camps in the area

² See Doc. 1.

³ Louisa Loveluck, *Dread in northern Syria as U.S. troops withdraw and cease-fire ends*, The Washington Post, Oct. 29, 2019, available at <https://www.washingtonpost.com/world/middle-east/dread-in-northern-syria-as-us-troops->

already.⁴ A tentative five day cease fire, negotiated and announced on October 17, 2019, and believed to affect the area where Ms. Muthana and her son are presently detained, ended.⁵

6. Accordingly, the failure of the United States to urgently facilitate the return of Ms. Muthana and her son will cause immediate and irreparable harm by jeopardizing their ability in the future to return to the United States.

7. In addition to the urgency created by the gradual withdrawal of U.S. troops from Syria, expedited relief is also proper in this matter based on updated information about the immediate danger faced by both Ms. Muthana and Minor John Doe in the camp where they are currently detained. *See* Exhibit A, Declaration of Ahmed Ali Muthana, attached.

8. As set forth by the first-hand account contained in Exhibit B and as attested by the signatures listed on that document, for the reasons set forth therein there is immediate danger to Ms. Muthana and her son.

9. Dr. Anne Speckhard, Ph.D., the Director of the International Center for the Study of Violent Extremism (ICSVE), has visited Ms. Muthana and detailed the danger that she faces as a result of her public repudiation of ISIS. The article states that “Hoda was in Camp Hawl and later transferred to Camp Roj, Syria, after receiving threats by other still dedicated members of ISIS[;] Women in Camp Roj have told us that there are some ISIS die-hards...who still try to enforce ISIS rules to cover, etc. and who also got alerted—probably via contraband mobile phones—when

[withdraw-and-cease-fire-ends/2019/10/29/02cc0f4a-f9b1-11e9-9e02-1d45cb3dfa8f_story.html](https://www.washingtonpost.com/news/terrorism-coverage/wp/2019/10/29/isis-withdraw-and-cease-fire-ends/2019/10/29/02cc0f4a-f9b1-11e9-9e02-1d45cb3dfa8f_story.html) (last visited Oct. 31, 2019).

⁴ *Id.*

⁵ *Id.*

women in the camp denounce the group to journalists,” as Ms. Muthana has publicly done on multiple occasions.⁶

10. The article further describes that detainees have been “confronted by these women with knives” in retribution for denouncing the group, and how “three children, all under age five, recently died of a tent fire in Camp Roj.”⁷

11. A subsequent article by Dr. Speckhard describes how female detainees are “being threatened with knives and having their possessions stolen by these ISIS enforcers for having appeared in the press.”⁸

12. Ms. Muthana, [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED].

13. Ms. Muthana has already had to move camps once due to death threats made specifically to her from those still loyal to ISIS; she now fears for her own life and safety and her young son’s.

14. Although the danger created by Ms. Muthana’s decision to publicly reject ISIS creates a need for an urgent determination in her civil case on its own, expedited relief is also proper in this

⁶ Anne Speckhard and Ardian Shajkovci, *American-Born Hoda Muthana Tells All About Joining ISIS and Escaping the Caliphate*, HSToday.us, April 23, 2019, available at <https://www.hstoday.us/subject-matter-areas/terrorism-study/american-born-hoda-muthana-tells-all-about-joining-isis-and-escaping-the-caliphate/> (last visited Oct. 31, 2019).

⁷ *Id.*

⁸ Anne Speckhard and Ardian Shajkovci, *Waiting for the Return of the Islamic State Caliphate among ISIS Enforcers in al Hol, Ain Issa and Roj Camps in Syria*, HSToday.us, Sept. 3, 2019, available at <https://www.hstoday.us/subject-matter-areas/terrorism-study/waiting-for-the-return-of-the-caliphate-among-isis-enforcers-in-syrias-al-hol-ain-issa-and-roj-camps/> (last visited Oct. 31, 2019).

matter due to immediate concerns about Minor John Doe's unstable health, minimal access to medical care, and ability to survive in a Kurdish detention camp.

15. Dr. Speckhard noted that Minor John Doe has "chronic bronchitis," a condition that the reporter described as "clearly observable."⁹ Dr. Speckhard further remarked that Minor John Doe is a "sickly child."

16. Dr. Speckhard further notes that "medical care is meager and the food allotment is limited and lacks fresh fruits and vegetables."¹⁰ The children in the camp are largely malnourished, and several have died as a result.¹¹

17. Dr. Speckhard condenses her first-hand observations of Ms. Muthana and Minor John Doe in her attached letter. She describes Minor John Doe in the following way:

He is sick and needs good and regular medical care. He struggles with heavy coughing, looks lethargic and is not behaving like a healthy normal young child presumably because of his chronic bronchitis. As a sickly and unvaccinated child, he is also much more vulnerable to any of the diseases that may spread through the camp of other unvaccinated children. He could easily die there. The camp is also not a good place for him to be for many other reasons, including that there is no good stimulation for him, no place to play, and no safe place to stay—cold in the winter and spring.¹²

18. This is consistent with information reported by the New York Times. In May, the news source described how, "in overflowing camps in eastern Syria, the wives and children of ISIS fighters...are dying of exposure, malnutrition and sickness[;] Children are too spent to speak[, and] women who have renounced the group live in dread of attacks from those who remain loyal."¹³

⁹ *Id.*

¹⁰ *Id.*

¹¹ Martin Chulov et al., *Shamima Begum: baby son dies in Syrian refugee camp*, The Guardian, March 4, 2019, available at <https://www.theguardian.com/uk-news/2019/mar/08/shamima-begum-confusion-after-reports-newborn-son-may-have-died> (last visited Oct. 1, 2019).

¹² See Doc. 25-1, Exhibit A, 3.

¹³ Vivian Yee, *Thousands of ISIS Children Suffer in Camps as Countries Grapple With Their Fate*, New York Times, May 5, 2019, available at

19. The information contained in the news reports involving Ms. Muthana and her son is also consistent with her own first-hand account. On March 21, 2019, Ms. Muthana was able to send a letter to her father in which she states that her son has long term bronchitis and asthma and needs medicine often, and that she is “terrified of seeing [her] son sick, because there is an average of 2 deaths (of children) a month.”¹⁴ She also described witnessing two babies dying due to lack of medical equipment, and three children due to tents being burned down.¹⁵

20. Furthermore, as articulated in the Declaration of Plaintiff Ahmed Muthana, he has received sporadic mobile communications from his daughter, detailing the conditions and increasingly poor health of her son.¹⁶ Among the information conveyed to Plaintiff Ahmed Muthana is the following:

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

<https://www.nytimes.com/2019/05/08/world/middleeast/isis-prisoners-children-women.html?searchResultPosition=1> (last visited Oct. 31, 2019).

¹⁴ See Doc. 25-1, Exhibit A, 2.

¹⁵ *Id.*

¹⁶ [REDACTED]

21. In addition, as set forth in Exhibit B and for the reasons articulated therein, there remain rapidly increasing threats to the physical safety of both Ms. Muthana and her young son.

22. The citizenship status of Minor John Doe depends upon the status of Ms. Muthana; accordingly, regardless of the choices made by his mother, the health and survival of a young U.S. citizen depend upon the expeditious resolution of Ms. Muthana's civil case.

II. APPLICABLE LAW

23. In its March 11, 2019 Order denying Plaintiff's first request for expedited relief, the District Court indicated its intention to apply the same framework that is used in evaluating a motion for a temporary restraining order or a preliminary injunction.¹⁷ Specifically, in order to meet his burden, the Court requires a plaintiff to "establish '[(1)] that he is likely to succeed on the merits, [(2)] that he is likely to suffer irreparable harm in the absence of preliminary relief, [(3)] that the balance of equities tips in his favor, and [(4)] that an injunction is in the public interest,' *Sherley v. Sebelius*, 644 F.3d 388, 392 (D.C. Cir. 2011) (quoting *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008)).'"¹⁸

24. While recognizing Plaintiff submitted some support for the other factors, this Court denied Plaintiff's request for expedited relief based on its assessment that Plaintiff failed at that time to submit sufficient evidence that Ms. Muthana faces irreparable harm if expedited relief were not granted.¹⁹

25. The new information submitted with this Motion remedies that earlier deficiency. As discussed in greater detail above, Plaintiff now presents this Court with updated information

¹⁷ Doc. 18 at 3.

¹⁸ *Id.*

¹⁹ *Id.* at 4.

regarding the credible threats of violence faced by his daughter and grandson where they are presently detained. Additionally, the health of Plaintiff's grandson is at serious risk every day that he remains in the camp without reliable or regular access to medical treatment, or the kind of safe and stable environment in which a two-year-old child can be expected to thrive.²⁰

26. Based on the foregoing facts, an expedited ruling is appropriate in this matter pursuant to Federal Rule of Civil Procedure 57, since without an expeditious ruling by this Court on Plaintiff's Complaint and the claims for relief sought therein, Ms. Muthana and Minor John Doe are in immediate danger of both physical violence and the already fragile health of Minor John Doe further declining. Accordingly, extreme damage will result to the interests of Plaintiff Ahmed Ali Muthana, and the interests of his daughter Hoda Muthana and grandson Minor John Doe.

27. Counsel for Plaintiff has conferred with counsel for the government prior to filing this motion. Counsel for the government stated that the government does not agree that events in Syria warrant an expedited ruling by the Court, and reserves its right to respond to this motion.

III. CONCLUSION

For the reasons set forth above, Plaintiff Ahmed Ali Muthana hereby requests an expedited ruling on his Complaint, which seeks a declaratory judgment that he will not be in violation of § 2339B if he provides his daughter and grandson with financial support to aid their survival and return to the United States. Plaintiff Ahmed Ali Muthana, as Next Friend of his daughter Hoda Muthana and grandson Minor John Doe, further seeks an expedited ruling on his claims for

²⁰ Should this Court see the benefit to updated briefing regarding the remaining legal issues relevant to this Complaint, as the prior briefing was completed nearly six months ago and new cases in this area have emerged, Plaintiff is glad to provide the Court with supplemental briefing. Plaintiff, however, did not want to presume leave to do so along with the filing of this Renewed Motion for Expedited Ruling without permission of the Court.

injunctive relief preventing the United States government from unconstitutionally revoking their rights as United States citizens, as well as on his claim seeking a writ of mandamus instructing the United States government to use its best good faith efforts to facilitate their return. Plaintiff further respectfully requests an expedited ruling on his claim seeking declaratory judgment that the U.S. government has an obligation to make all good faith efforts to assist with the return of its citizens from areas of armed conflict, based on U.S. law regarding the rights of citizenship, applicable international law, and the United States' own publically stated policies regarding the repatriation of American citizens.²¹

Respectfully submitted,

/s/ Christina A. Jump

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²¹ <https://www.state.gov/r/pa/prs/ps/2019/02/288735.htm> (last accessed October 2, 2019).

CERTIFICATE OF SERVICE

The undersigned counsel hereby affirms that the foregoing will be served on all counsel of record in this matter via ECF filing on this 1st day of November, 2019.

/s/ *Christina A. Jump*
Christina A. Jump

EXHIBIT A

DECLARATION OF AHMED ALI MUTHANA

I, Ahmed Ali Muthana, hereby declare under penalty of perjury and in accordance with 28 U.S.C. § 1746 the following:

1. I submit this declaration based on my own personal knowledge.
2. I am over the age of 18 and competent to testify to the facts below.
3. I am the father of Hoda Muthana.
4. I am the grandfather of Hoda Muthana's young son, referenced here as Minor John Doe.

5. [REDACTED]

6. [REDACTED]

7. [REDACTED]

8. [REDACTED]

9. [REDACTED]

10. [REDACTED]

11. [REDACTED]
[REDACTED]
[REDACTED]

12. [REDACTED]
[REDACTED]

13. [REDACTED]
[REDACTED]
[REDACTED]

14. Unfortunately, due to the lack of medicine and access to sufficient medical professionals, as well as the unsafe and unsanitary conditions in the camp, which include mold growing in the tents and no sanitation system, my grandson has suffered through several chest infections. These are getting worse with the increasingly colder weather.

15. I am greatly concerned about my young grandson's physical health and mental well-being. He just turned two years old recently and remains very much at risk of further medical complications where he is.

16. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

17.

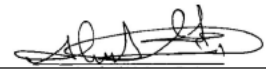
[REDACTED]

[REDACTED]

[REDACTED]

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct based on my personal knowledge.

Executed on October 31, 2019



Signature of Declarant
Ahmed Ali Muthana

EXHIBIT B

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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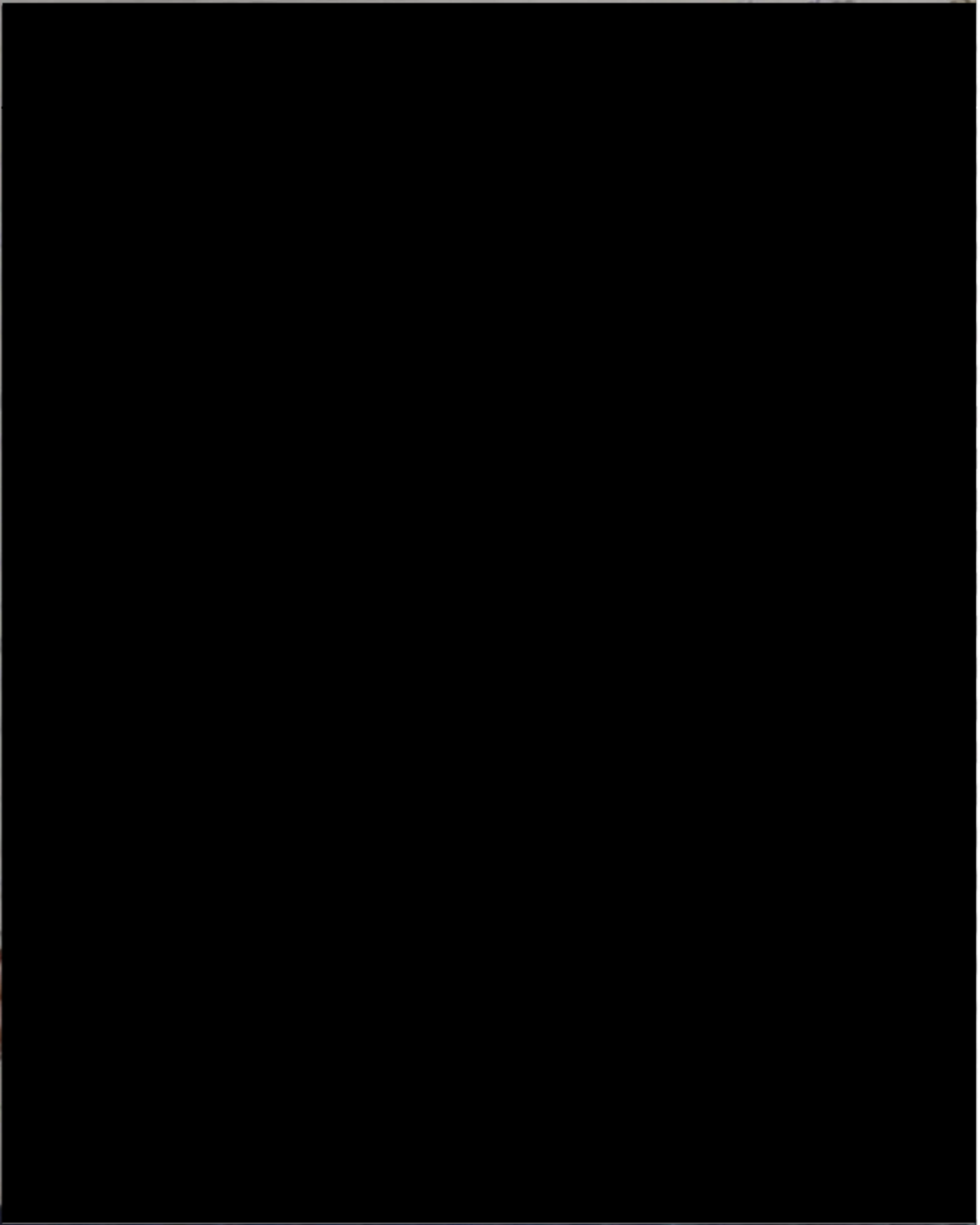
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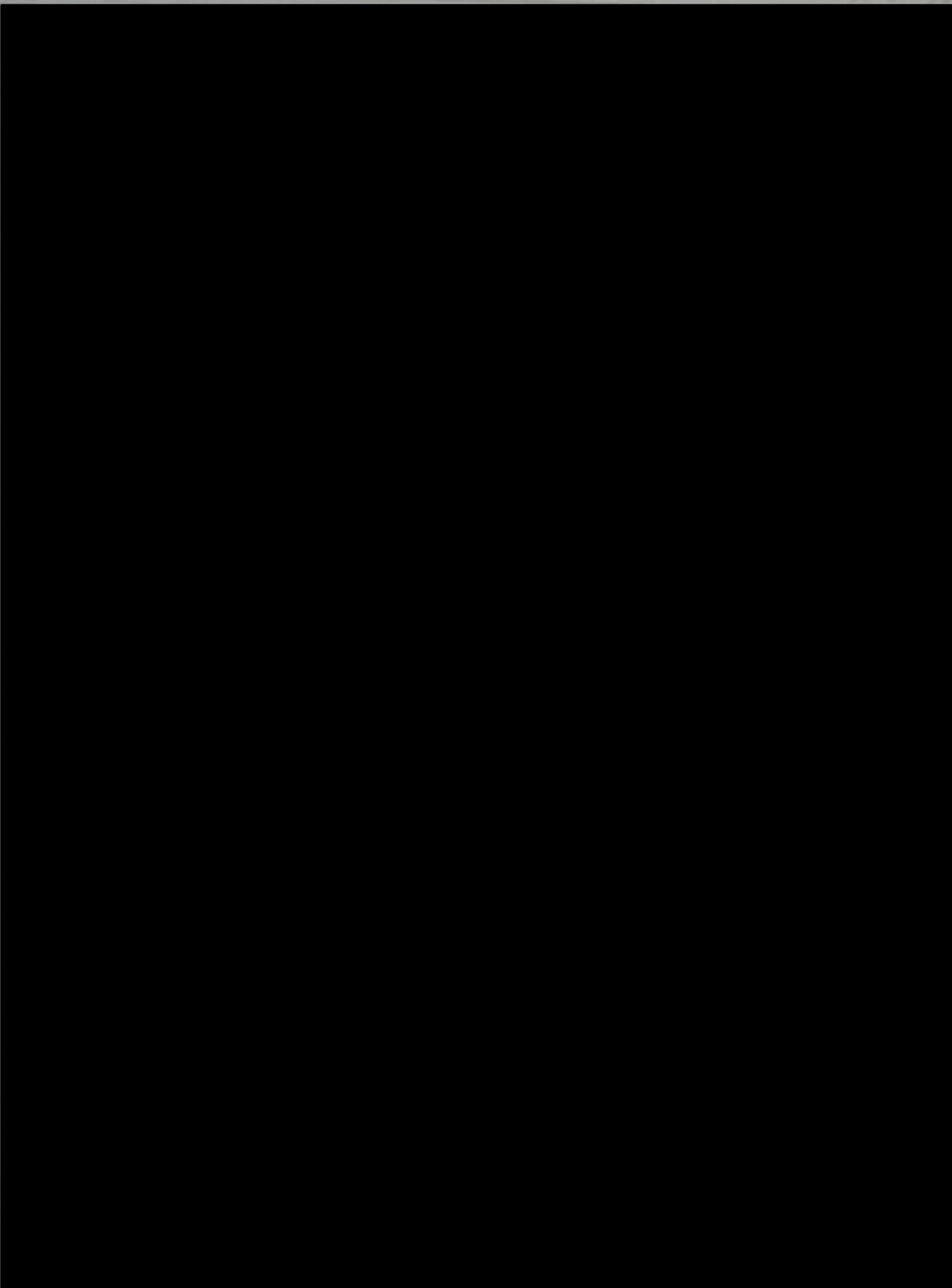
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[REDACTED]

Exhibit 1



IN THE UNITED STATES DISTRICT
COURT FOR THE DISTRICT OF COLUMBIA

**AHMED ALI MUTHANA, individually, and
as next friend of Hoda Muthana and Minor
John Doe [initials A.M.]**

Plaintiff/Petitioner,

vs.

**MICHAEL POMPEO, in his official capacity
as Secretary of the Department of State;
DONALD J. TRUMP, in his official capacity
as President of the United States; and
WILLIAM PELHAM BARR in his official
capacity as Attorney General.**

Defendants/Respondents.

Cause No. 1:19-cv-00445

CIVIL ACTION

[PROPOSED] ORDER

Upon consideration of Plaintiff's Renewed Motion for Expedited Ruling, it is hereby
ORDERED that Plaintiff's Renewed Motion for Expedited Ruling is GRANTED.

SO ORDERED this _____ day of _____, 2019

REGGIE B. WALTON
United States District Judge